



# GENERAL STATUTES COMMISSION

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## MEMORANDUM

February 13, 2013

**TO:** Senate Judiciary I Committee  
**FROM:** General Statutes Commission  
**RE:** SB 72 (Amend UCC Article 4A/Funds Transfers)

This bill amends Article 4A (Funds Transfers) of the Uniform Commercial Code (Article 4A) to continue the application of that Article to funds transfers that are remittance transfers as defined in the federal Electronic Fund Transfer Act (EFTA) as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank) but are not electronic fund transfers as defined in the EFTA. The bill is based on amendments to Section 4A-108 of the Uniform Commercial Code approved in 2012 by the Uniform Law Commission and the American Law Institute and also supported by the American Bankers Association.

Article 4A primarily governs the rights and responsibilities among commercial parties to funds transfers (also commonly referred to as wholesale wire transfers). These typically involve very large amounts of money in which several transactions involving several financial institutions may be needed to complete the transfers. Currently, G.S. 25-4A-108 limits the scope of Article 4A by excluding a funds transfer any part of which is governed by the EFTA.

Dodd-Frank extended the EFTA to apply to remittance transfers, defined as transfers of funds by consumers in the United States to recipients in foreign countries, whether or not the transfers were also electronic fund transfers (the original core definition in the EFTA). Dodd-Frank also established new protections for those consumers. As a result, when the EFTA's new implementing rules take effect in 2013, funds transfers that are also remittance transfers will be governed by the EFTA and Article 4A will no longer apply to them. If multiple financial institutions are involved in completing the transfer, these institutions will lose Article 4A's well-established legal framework that sets the rights, responsibilities, and liabilities of financial institutions participating in funds transfers vis à vis each other. The EFTA as amended does not provide for these.

The bill addresses this problem by altering the exclusion in G.S. 25-4A-108. The bill amends G.S. 25-4A-108 to designate the existing language as subsection (a) and amends subsection (a) to take into account the addition of two new subsections, (b) and (c). New subsection (b) provides that Article 4A applies to a remittance transfer as defined in the EFTA unless that remittance transfer is also an electronic fund transfer as defined in the EFTA. New subsection (c) provides that the EFTA applies in the event of an inconsistency between Article 4A and the EFTA. The bill also updates the catchline of G.S. 25-4A-108.

The bill authorizes the printing of official comments and is effective when it becomes law. The earliest possible effective date is necessary because of the planned 2013 effective date of the amendments to Regulation E that implement the remittance transfer provisions of the EFTA as amended.